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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/567,166

02/03/2006

Jean-Marie Badoz

MICROM23

9505

7590

07/31/2007

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EXAMINER

WERNER, JONATHAN S

ART UNIT

PAPER NUMBER

3732

MAIL DATE

DELIVERY MODE

07/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,166

Applicant(s)

BADOZ, JEAN-MARIE

Examiner

Jonathan Werner

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/30/07.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/30/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to Applicant's amendment received 4/30/07.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 4/30/07 is noted. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Specification

3. The amendment filed 4/30/07 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: Applicant's description of the axial alignment between the shank, the attachment means, and the rotatable member (page 3, paragraph 3). Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

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4. Claims 13 and 19-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claim 13, it is still not entirely clear from Applicant's disclosure that the claimed attachment means can also removably fix the instrument on the shank. Furthermore, claims 19 and 20 contain subject matter related to the axial alignment between the shank, the attachment means, and the pinion. Applicant can not find support for such a recitation in the originally filed disclosure, and hence is considered new matter. Although Applicant alleges the originally submitted drawing shows this axial alignment, Examiner contends that this is not the case since the drawing is not presented in sufficient detail to discern specific alignments. For example, both the attachment means and the shank appear in the drawings as if they can be axially offset from the pinion instead.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regard to claim 11, Examiner does not understand how the pinion can be free to rotate within the head if it is fixedly associated

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with body portions of the head. On the contrary, doing so would appear to inhibit any type of rotation within the head.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11-16 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lightle et al. (US 4,947,942) in view of Euvrard (US 2006/0172256). With respect to claims 11 and 16, Lightle et al. disclose a reusable contra-angle hand tool (10) for receiving a dental instrument (i.e. 55), said tool having a head (11) comprising a shank (56) received by the head; means (57/15, column 4, lines 20-22) for attaching the shank to the head; and a pinion member (46) associated with the head and located between the shank and attachment means (as shown in cross-sectional view in Figure 5A), wherein the pinion is associated with body portions of the head also shown in Figure 5A. Lightle fails to disclose the pinion is overmolded onto the dental instrument. Euvrard, however, teaches such a dental instrument (2/2a) that has a pinion (4) overmolded onto it (i.e. see Figure 1; claim 1). Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to overmold the pinion onto the dental instrument in order to ensure a proper connection

as taught by Euvrard. Examiner notes that as best understood, Applicant's reference to a "contra-angle" is interpreted as the contra-angle assembly as a whole, wherein said assembly further comprises the elements (i.e. the head) as claimed. As to claims 12-13, Lightle further discloses that the instrument used in the handpiece can include any desired type of dental tool that can be removably fixed and replaced (column 4, lines 20-22 & lines 63-68). As to claims 14-15, the overmolded material of Euvrard that forms the pinion/instrument connection is plastic (paragraph 0017). As to claim 18, the contra-angle hand tool of Lightle can operate with a reciprocating movement since it allows for rotational movement of the instrument (see Abstract). In regard to claims 19-20, the attachment means disclosed by Lightle is axially aligned with the shank, and the pinion is axially aligned with said attachment means (see Figure 4).

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lightle et al. in view of Euvrard as applied to claim 11 above, and further in view of Makris et al. (US 5,941,705). Lightle et al. and Euvrard fail to disclose the endodontal tool can be made entirely of plastic. Makris, however, teaches an endodontic tool which can be made entirely from plastic (column 8, lines 39-42). Therefore, it would have been obvious to one having ordinary skill in the art at the time of Applicant's invention to make the entire contra-angle out of plastic in order to make it weight less so a practitioner can hold it more comfortably.

Response to Arguments

8. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

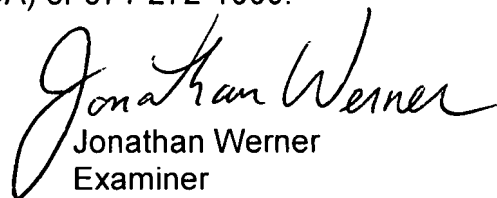
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Werner whose telephone number is (571) 272-2767. The examiner can normally be reached on Monday-Friday.

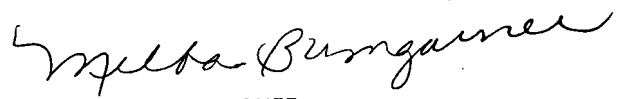
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cris Rodriguez can be reached on (571) 272-4964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jonathan Werner
Examiner

7/12/07


MELBA N. BUMGARNER
PRIMARY EXAMINER